

movement to generate electrical power to drive the player's car. The more the player exerts himself, the greater the generated power to drive the car. Accordingly, the electrical power is manually generated to drive the car.

The Smack, Sr. et al. patent

The Smack, Sr. et al. patent does not teach or suggest a slot car toy powered by a manually driven electrical power generating means as recited in claim 1.

As admitted by the Examiner, the Smack et al. patent "fails to teach at least one toy car and a sound generating means" (Office Action at page 2). The Smack, Sr. et al. patent discloses a form of slot-type racing figurines. The figurines are guided along the slots in the track and have electric motors that are powered by control signals (abstract). The control signals are derived from a foot control unit "that is operated by alternating foot motions of the user." However, the user does not physically exert to generate the power needed to drive the figurines. Rather, the power is sourced from an A.C. voltage source (col. 7, lines 31-36; Fig. 6b).

The Seelig et al. patent does not cure the deficiencies of the Smack, Sr. et al. patent. The Seelig et al. patent teaches a combined slot machine and racing game that is conventionally powered, but the Seelig et al. patent does not teach or suggest a slot car toy powered by a manually driven electrical power generating means as recited in claim 1.

The Bliss et al. patent

The Bliss. et al. patent does not teach or suggest a slot car toy powered by a manually driven electrical power generating means as recited in claim 1.

As admitted by the Examiner, the Bliss et al. patent "fails to teach at least one toy car and a sound generating means" (Office Action at page 3). The Bliss et al.

patent discloses a jogging game apparatus controlled by a person jogging in place to establish a simulated race between the jogger and a simulated competitive runner (abstract). The jogger runs on a mat to generate control signals that controls the movement of game pieces 20 and 22 positioned on a board 10 (Figs. 1 and 2). However, the user does not physically exert to generate the power needed to drive the game pieces. Rather, the power is supplied from an external source 40.

The Seelig et al. patent does not cure the deficiencies of the Bliss et al. patent. The Seelig et al. patent does not teach or suggest a slot car toy powered by a manually driven electrical power generating means as recited in claim 1.

#### Standard of Obviousness

The prior art does not teach or suggest incorporating a manually driven electrical power generating means with an electrically powered slot car racing system as recited in claim 1. Furthermore, the prior art does not teach or suggest incorporating a hand, foot, or treadmill operated generator to power the toy cars, as respectively recited in claims 2-4. Rather, all cited references disclose conventional A.C. powered machines. The applied references do not teach or suggest a manually driven electrical power generating means with an electrically powered slot car racing system as recited in claim 1. Accordingly, to one of ordinary skill, the idea of a powered slot car racing system that requires physical effort and exertion to manually drive electrical power would seem contradictory to the prevailing trend towards battery (or mains) powered toys.

When applying 35 U.S.C. §103, the references must suggest the desirability of making the combination, and must be viewed without the benefit of impermissible hindsight. Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 229 USPQ 182 (Fed. Cir.

1986). See also MPEP §2143 regarding the basic criteria for establishing a prima facie case of obviousness. The Examiner has not met the burden of pointing out the suggestion of the desirability of making the combination in the applied references. Further, the references do not appear to be reasonably pertinent to the particular problem with which the inventor was concerned. *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ 2d 1443, 1445 (Fed. Cir. 1992).

There has been no showing of support for the conclusion that it would have been obvious to incorporate a manually driven electrical power generating means with an electrically powered slot car racing system as the Examiner asserts. Only Applicant teaches manual electric power generation that powers the basic speed of the slot car. Manual power generation as taught by the Applicant is potentially safer and readily portable than apparatuses that inherently rely on plug-in power.

For at least the foregoing reasons, Applicant's claim 1 is allowable. The remaining claims depend from independent claim 1 and recite additional advantageous features which further distinguish over the documents relied upon by the Examiner. As such, the present application is considered in condition for allowance.

